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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/688,474	10/16/2003	John M. Curotto	CURO-1001-us0	2190

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EXAMINER

KEENAN, JAMES W

ART UNIT

PAPER NUMBER

3652

DATE MAILED: 03/03/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/688,474

Applicant(s)

CUROTTO ET AL.

Examiner

James Keenan

Art Unit

3652

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 December 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-42 is/are pending in the application.
- 4a) Of the above claim(s) 16-19 and 27-42 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-15 and 20-26 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on _____ is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____

1. Applicant's election with traverse of Group I and Figures 3-4 in the reply filed on 12/27/05 is acknowledged. The traversal is on the ground(s) that no undue burden exists in examining method claim 29 along with the elected apparatus claims. This is not found persuasive because method claim 29 is only one of several method claims grouped together, and thus, even if claim 29 could be examined without undue burden, this does not necessarily mean that all claims of Group II could be.

The requirement is still deemed proper and is therefore made FINAL.

2. Claims 16-19 and 27-42 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to nonelected inventions (claims 16-19 and 27-30) and species (claims 31-42), there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on 12/27/05.

3. The lengthy specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Art Unit: 3652

5. Claims 2, 12, 20, and 21 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 2, it is not clear what is meant by "short dump or other ... collisions".

In claim 12, "mechanically driving retractable lowering" is not understood.

In claim 20, line 7, "a supplied fork lift means" is unclear: is this a positive recitation?

Also in claim 20, lines 15-16, it is not clear what is meant by "comprises ... consisting of";

and line 17, "can be" should be deleted.

In claim 21, it is not clear what is meant by "pitch as a unit".

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 1, 2, 7, 9-11, 13, 14, 20-22, and 24 are rejected under 35 U.S.C. 102(b) as being anticipated by Zopf (US 5,607,277).

Zopf shows a fork-liftable refuse container 25 and a side-loading robotic arm mechanism 44 for use with a front-loading, waste collecting vehicle, wherein the major mass portion of the arm is mounted rearward of "a rear, refuse-containing wall [38] of the container", as broadly claimed, and the container has fork-receiving pocket means

42 attached thereto which extend rearward of the wall 38 to space the major mass portion of the arm in front of a clearance plane extending through rear end points of the forks of the vehicle.

Re claim 2, tunnel 36 is considered a "protective cage", as broadly claimed.

Re claim 7, unlabeled support ribs can be seen in figures 2 and 4.

Re claims 9-11, motors are provided for driving the arm sideways, rotating the arm, and grasping items with the arm.

8. Claims 1, 2, 7, 9-11, 13, 14, 20-22, and 24 are rejected under 35 U.S.C. 102(b) as being anticipated by Christenson (US 5,938,394).

This reference is substantially similar to Zopf.

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to

consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

11. Claims 3-5, 8, 12, 23, 25, and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Zopf or Christenson.

Neither Zopf nor Christenson show the protective cage to include crossbars with an elastomeric bumper. Nevertheless, the inclusion of such features would have been obvious to one of ordinary skill, as this would simply a design expediency which would require no undue experimentation and produce no unexpected results.

Re claim 8, the addition of a support member to reinforce the pocket means is considered another obvious design expediency, as is the retractable support leg of claim 12.

Re claim 23, both Zopf and Christenson appear to show the pockets extending at least 10 inches beyond the rear wall, but no explicit disclosure to this effect is given. Nevertheless, it would have been obvious for one of ordinary skill in the art at the time of the invention to have constructed the pockets of Zopf or Christenson this way, if not inherent, as a mere design expediency.

12. Claims 6 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Zopf or Christenson in view of Walker et al (US 6,632,064).

Neither Zopf nor Christenson show a vibration dampener in the fork receiving pocket means.

Walker shows a vibration absorbing material in a fork receiving pocket of a refuse container in the same environment.

It would have been obvious for one of ordinary skill in the art at the time of the invention to have modified the apparatus of Zopf or Christenson with a vibration dampener as suggested by Walker, as this would reduce harmful vibrations and unwanted noise during container emptying.

13. Claims 1-5 and 7-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Updike, Jr. (US 3,762,277) in view of Zopf or Christenson.

Updike shows the invention essentially as claimed, including arm 54 having a major mass portion mounted rearward of rear wall 46 of container 42, but the container does not have fork-receiving pocket means.

Zopf and Christenson, as noted above, show such a feature, and in view of same, it would have been obvious for one of ordinary skill in the art at the time of the invention to have modified the apparatus of Updike with a container having fork-receiving pocket means, as this would allow different containers to be interchangeably fitted to the vehicle, thereby increasing its flexibility and usefulness.

14. Claims 6 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Updike, Jr. in view of Zopf or Christenson, as applied to claims 1-5 and 7-14 above, and further in view of Walker et al.

Art Unit: 3652

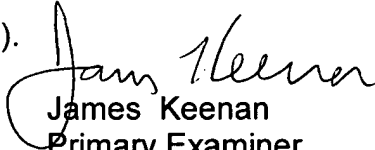
This rejection utilizes the same obviousness rationale set forth in paragraph 12 above.

15. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

16. Any inquiry concerning this communication or earlier communications from the examiner should be directed to James Keenan whose telephone number is 571-272-6925. The examiner can normally be reached on (schedule varies).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eillen Lillis can be reached on 571-272-6928. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


James Keenan
Primary Examiner
Art Unit 3652

jwk
2/22/06